IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF APRIL
TWO THOUSAND AND NINE

PRESENT
THE HON'BLE MR JUSTICE GHULAM MOHAMMED
and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 4162 of 2009

Between:
M.A.Somasekhar S/o.M.Anjaneyulu
R/o.Indiranagar, Atmakur Mandal, Kurnool District

.....
PETITIONER

AND

1 High Court of Andhra Pradesh, Hyderabad rep.by Registrar General
2 The Registrar (Vigilance) High Court of Andhra PRadesh Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records relating to the order Roc.No.1142/2008-Vigilance Cell dated 5.9.2008 and consequently D.O.LR.No.1142/2008-Vigilance Cell, dated 5.9.2008 passed by the 2nd respondent and quash the same as being illegal, arbitrary, and contrary to Sub-Rule 1 of Rule 8 of A.P.C.S.(CC&A) Rules,1991,by issuing writ of Certiorari.

Counsel for the Petitioner:MR.M.GANGA RAO

Counsel for the Respondent No.: MR.D.V.SITARAMAMURTHY

The Court made the following :

ORDER: (Per GM, J)

This writ petition is filed seeking a writ of certiorari calling for the records relating to the order in ROC.No.1142/2008-Vigilance Cell, dated 05.09.2008, and consequently D.O.Lr.No.1142/2008-Vigilance Cell, dated 05.09.2008, passed by the second respondent and for quashing the same.

The petitioner states that while he was working as Junior Civil Judge, Atmakur, he was placed under suspension pending enquiry by order dated 05.09.2008 of the second respondent, on the ground that he called the A.P.TRANSCO employees to his chambers in the Court premises, insisted them to give explanation in writing for the power failure in his chambers, abused them in filthy language and beat them while they were on official duty. In this connection, the second respondent initiated disciplinary proceedings against him under Rule 20 of Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 (for short 'the Rules') and issued articles of charges vide proceedings dated 19.11.2008. The petitioner submitted his written statement of defence on 28.08.2008 denying the said articles of charges. The petitioner states that on account of the highhandedness of the employees of A.P.TRANSCO entering into

his chambers, he gave a complaint against them and the same was registered as Crime No.100 of 2008 of Atmakur Police Station and that as a counterblast, the electricity employees filed a complaint against him and the same was registered as Crime No.102 of 2008 of Atmakur Police Station. The grievance of the petitioner is that the second respondent has passed the impugned order without giving any opportunity to him. Hence, he filed the present writ petition.

Learned counsel for the petitioner contended that since there was electricity failure in his chambers, the petitioner called the officials of electricity department and that the men of the said department trespassed into his chambers without his prior permission, and therefore, he gave a complaint against them, and as a counterblast to it, they filed a complaint against him with false allegations and as such, it cannot be presumed as grave misconduct on his part.

Learned counsel for the respondents contended that after conducting preliminary enquiry, the second respondent issued the impugned orders in exercise of the powers conferred under Sub-rule (1) of Rule 8 of the Rules placing the petitioner under suspension and that the inquiry against him is in progress.

Sub-rule (1) of Rule 8 of the Rules reads as under:

"(i) A member of a service may be placed under suspension from service-

(a) Where a disciplinary proceeding against him is contemplated or is pending, or

(b) Where in the opinion of the authority competent to place the government servant under suspension, he has engaged himself in activities prejudicial to the interest of the security of the State, or

(c) Where a case against him in respect of any criminal offence is under investigation, inquiry or trial;

(d) A member of a service may be placed

> under suspension from service even if the offence for which he was charged does not have bearing on the discharge of his official duties.

Having heard the learned counsel for both the parties, we are of the view that the petitioner was placed under suspension as per the above mentioned Rule. It is needless to mention that placing him under suspension is a domain of the appointing authority as regards the alleged misconduct. A preliminary enquiry was conducted by recording the statements of witnesses concerned, based on which, the second respondent came to the conclusion that there is a prima facie case against the petitioner with regard to the alleged misconduct. Therefore, the second respondent placed the petitioner under suspension pending enquiry. Hence, we do not find any illegality or irregularity on the part of the second respondent in issuing the impugned orders.

Suspension pending enquiry is not a punishment and it is well settled that normally, the Courts cannot interdict those suspension proceedings. However, we direct the authorities concerned to conclude the inquiry within a period of two months from the date of receipt of a copy of this order.

Accordingly, the Writ Petition is disposed of. No costs.

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GHULAM MOHAMMED, J

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B.SESHASAYANA REDDY, J

Date:30.04.2009

sj